REMARKS

This response is intended to fully respond to the Office Action dated March 26, 2004, in which claims 1, 2, 5, 7-14 and 16-21 were examined and all were rejected. More specifically, claims 1, 2, 5, 7-14 and 16-21 were been rejected under 35 U.S.C. § 103(a) as being unpatentable over Hodges et al. (USPN 6,035,423) in view of Nachenberg (USPN 6,067,410).

In this response no claims have been canceled, amended or added. Claims 1, 2, 5, 7-14, and 16-21 remain pending in the application. Reconsideration and withdrawal of the outstanding rejections is respectfully requested based on these remarks.

Status of Office Action

Although the "Office Action Summary" sheet notes that the action is both final and non-final (boxes 2a and 2b were checked), based on a telephone conference with the Examiner on April 29th, 2004, it is clear that the Office Action was intended to be and is treated as non-final.

Claim Rejections – 35 U.S.C. § 103

Claims 1, 2, 5, 7-14 and 16-21 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Hodges et al. (USPN 6,035,423) in view of Nachenberg (USPN 6,067,410).

Applicant respectfully traverses the § 103(a) rejections of claims 1, 2, 5, 7-14, and 16-21, since the combination of Hodges and Nachenberg fails to teach or suggest the invention recited in each of these claims. Specifically, a prima facie case of obviousness first and foremost requires that the cited references must teach or suggest each of the elements of the claimed invention (MPEP § 706.02(j) and 2142-43). However, the combination of Hodges and Nachenberg fails to disclose or suggest the use of "a version specific attribute," or "mask information providing information related to which predetermined events invalidate the version-specific information" as recited in independent claims 1, 10, 13, and 17. Reconsideration of the § 103(a) rejections is therefore respectfully requested. Claims 2, 5, 7-9, 14, 16, and 18-21 depend on these independent claims, and thus should be allowed for at least the same reasons.

The Office Action of March 26, 2004 relied primarily on the Hodges reference in making the obviousness rejections of the independent claims, with Nachenberg being cited only for the purported disclosure of "version-specific attributes compris[ing] mask information providing information related to which predetermined events invalidate the version-specific information."

Hodges seeks to solve the problem of keeping an anti-virus software package up to date. Nachenberg seeks to solve the problem of fixing virus-infected files. The present invention

7

seeks to solve still another problem, namely that of tracking which files have been scanned by the current version of an anti-virus software package, and which events can nullify the "has been scanned" status. The three inventions are thus directed at solving three entirely different problems.

Hodges describes a system or method having the specific problems that are solved by the present invention. As stated in Hodges' Invention Summary (Column 4, lines 54-57), "The central antivirus server comprises a first database containing information related to the latest antivirus software updates contained on each local computer." Whereas Hodges teaches said central database of version information, the present invention uses an entirely different, distributed version data storage model. Specifically, the present invention can store version information in every virus-scanned file on the user's computer, via the use of adding or modifying file attributes, instead of relying on a single, centralized database as in Hodges.

Hodges is directed to a method for updating antivirus files on a computer using "push" technology. More specifically, the files of a single anti-virus package are periodically checked for a newer version, and automatically updated or replaced if one exists via a push method. This checking can occur over a local area network to a central server, or over the Internet. Hodges only relates to versions of virus definition files within the anti-virus software package itself, and does not relate to the status of particular user files, thus further distinguishing it from the claims of the present application. More specifically, Hodges does <u>not</u> describe the creation or later use of a **version-specific attribute that pertains to the version of the virus-definition file and is located with the file itself.** Simply put, Hodges does not add its own version-specific attributes to user files (i.e., files made by independent applications) but rather only checks and updates the virus-package files.

Nachenberg is directed to an emulation repair system that restores virus-infected files via a virtual machine. Through emulation, the original (virus-free) state of the infected file is determined, and said infected file can be restored to this state. Nachenberg is wholly inapposite to the claimed invention of the present application since the emulation repair information is entirely different from the version specific attribute information claimed in the present application. Nachenburg would not and could not use version-specific attribute information as claimed, and the present invention does not require the use of an emulation repair system. It

does not teach or suggest mask information as in the present invention, nor does it teach or suggest predetermined events being used to invalidate version-specific information.

The combination of Hodges and Nachenburg simply do not teach or suggest each of the elements of the claimed invention. Neither Hodges or Nachenberg, alone or in combination, disclose the use of "a version specific attribute," or "mask information providing information related to which predetermined events invalidate the version-specific information" as recited in independent claims 1, 10, 13, and 17. Reconsideration of the § 103(a) rejections is therefore respectfully requested. Claims 2, 5, 7-9, 14, 16, and 18-21 depend on these independent claims, and thus should be allowed for at least the same reasons. Since the remarks above are believed to distinguish over the applied reference, any remaining arguments supporting the claim rejections are not acquiesced to because they are not addressed herein.

CONCLUSION

As originally filed, the present application included 21 claims, 4 of which were independent. As amended, the present application includes 17 claims, 4 of which are independent. Accordingly, it is believed that no other fees are due with this Amendment and Response. However, the Commissioner is hereby authorized to charge any deficiencies or credit any overpayment with respect to this patent application to deposit account number 13-2725.

In light of the above remarks, it is believed that the application is now in condition for allowance, and such action is respectfully requested. Should any additional issues need to be resolved, the Examiner is requested to telephone the undersigned to attempt to resolve those issues.

Respectfully submitted,

Dated: 6/24/04

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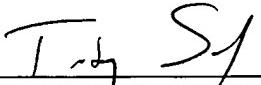
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9